

REMARKS

Applicant has considered the outstanding official action. The Board of Patent Appeals and Interferences's ("Board") Decision On Appeal ("Decision") affirmed the Examiner's rejection of the claims. It is respectfully submitted that the claims are directed to patentable subject matter as set forth below.

Claims 1-26 are rejected under 35 U.S.C. § 103(a) over the "Crustless Pizza" recipe, i.e., the "Deep Dish Pizza" recipe therein, in view of the disclosure by the Google Group on April 1, 2003 (Google Group disclosure). Applicant respectfully traverses this rejection based on the applied art.

In view of the rejection and the Board's Decision, applicant has amended the claims to more precisely define applicant's invention. Specifically, the Board and applicant disagreed as to the claim interpretation of the independent claims. Applicant has addressed this issue by amending the claims. For the reasons set forth hereafter, applicant respectfully submits that the claims are allowable over the cited references.

Claims 1, 11, 16 and 22 are the independent claims. The Examiner has rejected these claims under 35 U.S.C. § 103(a) based on the "Crustless Pizza" recipe, i.e.,

the "Deep Dish Pizza" recipe therein, in view of the Google Group disclosure. The "Deep Dish Pizza" recipe discloses sprinkling Italian cheeses over the bottom of a casserole dish and pouring an egg mixture over the cheese. The egg mixture includes cream cheese and three eggs beaten together until smooth, and then cream, grated Parmesan cheese and spices, such as oregano and garlic powder, are added thereto. The "Deep Dish Pizza" recipe does not disclose or suggest a base layer of non-liquid ingredients including a dry formulated flour mixture and cheese as claimed. The "Deep Dish Pizza" recipe discloses that the egg mixture is poured over shredded Italian cheeses sprinkled over the bottom of a dish. One skilled in the art knows that when cream cheese is beaten together with three eggs until smooth, a liquid or substantially liquid mixture is formed. Due to this liquid or substantially liquid nature, the egg mixture does not remain on top of the shredded Italian cheeses, but mixes with the Italian cheeses by flowing into the spaces between the shredded cheese. Accordingly, the egg mixture becomes a part of the cheese layer, and thus, the base layer disclosed by the "Deep Dish Pizza" recipe, unlike the claimed base layer of non-liquid ingredients including a dry formulated flour mixture and cheese. Thus, the "Deep Dish Pizza" recipe teaches away from a base layer

of non-liquid ingredients.

The Google Group disclosure does not make up for the shortcomings of the "Deep Dish Pizza" recipe as set forth above. The Examiner states that, according to the Google Group disclosure, it "is known to make low carbohydrate crust using a little flour and some whey protein." The Google Group disclosure provides that "[t]here are recipes for low carb crusts that use a little flour and some whey protein in a cook book I bought, but I haven't tried them, so I hesitate to recommend them right now." The Google Group disclosure does not disclose or suggest a base layer of non-liquid ingredients including a dry formulated flour mixture and cheese as claimed.

Neither the "Deep Dish Pizza" recipe nor the Google Group disclosure provide any suggestion to modify the teachings of either reference in order to provide the invention as claimed. Even if the "little flour and some whey protein" of the Google Group disclosure was combined with the cheese and egg mixture of the "Deep Dish Pizza" recipe, a liquid or substantially liquid mixture is still formed which flows into the spaces between the shredded cheese to form the base layer thereof. Accordingly, the "Deep Dish Pizza" recipe in combination with the Google Group disclosure does not disclose or suggest a base layer

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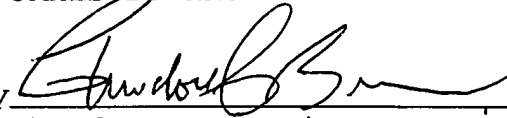
of non-liquid ingredients including a dry formulated flour mixture and cheese as claimed, and does not render the invention as claimed obvious under 35 U.S.C. § 103(a). Withdrawal of the § 103 rejection is respectfully requested.

Reconsideration and allowance of the claims is respectfully requested.

Respectfully submitted,

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By



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